



Office of the Attorney General
State of Texas

DAN MORALES
ATTORNEY GENERAL

November 16, 1992

Ms. Beverly J. Landers
Acting Deputy City Attorney
City of Austin
P.O. Box 1088
Austin, Texas 78767-8828

OR92-651

Dear Ms. Landers:

You ask whether certain information is subject to required public disclosure under the Texas Open Records Act (the "act"), article 6252-17a, V.T.C.S. Your request was assigned ID# 17307.

The City of Austin (the "city") has received a request for "copies of information regarding the installation and inspection of the heating unit" at a particular Austin address, including copies of "an audit report dated October 31, 1988," and "any inspection permits issued by the City" for that address. You state that all of the requested information is excepted from required public disclosure by section 3(a)(3) of the act.

Section 3(a)(3) excepts

information relating to litigation of a criminal or civil nature and settlement negotiations, to which the state or political subdivision is, or may be, a party, or to which an officer or employee of the state or political subdivision, as a consequence of his office or employment, is or may be a party, that the attorney general or the respective attorneys of the various political subdivisions has determined should be withheld from public inspection.

V.T.C.S. art. 6252-17a, § 3(a)(3). This exception enables a governmental body to protect its position in litigation by forcing parties seeking information relating to that litigation to obtain it through discovery, if at all. Open Records Decision No. 551 (1990) at 3. Consequently, it applies only when litigation in a specific matter is

pending or reasonably anticipated and only to information relevant to that litigation. Open Records Decision Nos. 555, 551 (1990).

You have provided us a copy of a Notice of Claim for Damages that has been filed with the City Manager's Office. In the notice, the claimants seek compensation for damages sustained with regard to a death at that address. Accordingly, we conclude that litigation is anticipated for purposes of section 3(a)(3). The documents¹ that you submitted for our review are contained in Exhibits B, E, and F. Having examined these documents, we agree that they relate to the anticipated litigation. Therefore, they may be withheld pursuant to section 3(a)(3).

Because case law and prior published open records decisions resolve your request, we are resolving this matter with this informal letter ruling rather than with a published open records decision. If you have questions about this ruling, please refer to OR92-651.

Yours very truly,



Celeste A. Baker
Assistant Attorney General
Opinion Committee

CAB/HJ/lmm

Ref.: ID# 17307

Enclosure: Submitted documents
Open Records Decision No. 551

¹We understand that pages one and nine of Exhibit B will be released.

cc: Mr. Terry Scarborough
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